



August 11, 2017

The Honorable Peter K. Michael
The Attorney General of Wyoming
Kendrick Building
2320 Capitol Avenue
Cheyenne, WY 82002

RE: Chapter 31-Graduation Requirements

Dear Attorney General Michael:

BACKGROUND

During the June 21, 2017 meeting of the Joint Education Interim Committee (JEIC), representatives of the State Board of Education (Board) and Department of Education were asked to provide an update and status report on efforts to promulgate a revised “Chapter 31 – Graduation Requirements” in response to Chapter 179 of the 2015 Wyoming Session Laws. Although the discussion focused primarily on the Legislature’s intent in amending Wyoming Statutes §§ 21-2-304(a)(iii) and (iv), it was noted that objections to the proposed rule stem from a belief that every high school diploma awarded by a Wyoming public school district be equitable. The Board understood this comment may assert that it has a constitutional obligation that may supersede Wyoming Statute § 21-2-304(a)(iv). This statute requires that the Board, in consultation with local school districts, “establish requirements for students to earn a high school diploma as evidenced by course completion and as measured by each district’s assessment system...”

The Board’s regulations, including the proposed Chapter 31 revision, help provide the essential administrative framework for “...an education system of a character which provides Wyoming students with a uniform opportunity to become equipped for their future roles as citizens, participants in the political system, and competitors both economically and intellectually.” *Campbell Cty. Sch. Dist. v. State*, 907 P.2d 1238, 1278 (Wyo. 1995). This framework includes, but is not limited to, the prescription of uniform student content and performance standards and the enforcement of those standards as

well as the uniform state educational program standards imposed by W.S. §§ 21-9-101 and 21-9-102.

In reviewing the four memoranda issued by the LSO since 2015 on Chapter 31 [ERR15-025, ERR16-008, ERR16-020, and AAR17-001], the Board has found no specific notation of deficiencies in the rule regarding issues of constitutionality or equity. In fact, the finding included in AAR17-001 simply concludes as follows: “The rules do not appear to be within the scope of statutory authority or legislative intent.”

REQUEST FOR OPINIONS

In light of this new information and in furtherance of the Board’s ongoing efforts to promulgate Chapter 31, the Board requests a formal legal opinion regarding the extent to which the Constitution of the State of Wyoming mandates that the Legislature or Board provide a system that assures that each high school diploma issued by a local board of trustees is equitable across the state.

Beyond the central question of constitutional equity raised above, the Board is requesting guidance that will help it meet its statutory responsibility to establish graduation standards as noted. Several other questions have been raised by state board members including:

(A) What are the district requirements relative to graduation requirements, beyond those listed in statute, until an acceptable version of Chapter 31 is adopted and effective?

(B) Since W.S. § 21-2-304(a)(iv) does not specifically require Board rule and regulation on the establishment of high school diploma requirements, could the Board simply repeal Chapter 31?

(C) The Board is also seeking clarification of how the graduation standards 21-2-304(a)(iii) are required to be used in high school diploma requirements under (a)(iv), if at all.

(D) Is it the Board (in consultation with local districts) that determines the rigor (difficulty) level of the graduation standards and determines the level at which students have to pass the District Assessment Systems in order to graduate?

(E) The Board is currently working with Department of Education staff and the Office of the Governor to chart a path forward. One option would be to convene committees in the nine content areas (including district staff, parents, and employers) and ask them to determine those areas where graduation standards may be set. The Board would then take public testimony and put draft rules out for promulgation. This would take some amount of time and money, but we would begin that process if such an

undertaking would meet the scrutiny of the Legislative Services Office (LSO). Is this an approach that you believe may pass muster with the LSO?

The Board has been stymied in four attempts to promulgate graduation requirements that meet statutory intent and is reaching out for guidance, and would greatly appreciate any direction which could be provided.

Sincerely,

Walt Wilcox, Chairman